



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II BUILDING, 7TH FLOOR
ROUTE 165 GUAYNABO, PUERTO RICO 00968

May 19, 2020

VIA EMAIL

Mr. Randy Jansen
President
Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago
Humacao, Puerto Rico 00741-0918

**Re: Peñuelas Valley Landfill
Administrative Order on Consent
Docket Number CWA-02-2018-3104
2015 MSGP Tracking Number PRR053203**

Dear Mr. Jansen:

On September 27, 2018, the United States Environmental Protection Agency (“EPA”) and Peñuelas Valley Landfill, LLC (“Respondent” or “PVL”) entered into an Administrative Order on Consent, Docket Number CWA-02-2018-3104 (the “2018 Order”), to address PVL’s violations of Sections 301(a) and 402 of the Clean Water Act (the “Act” or “CWA”), 33 U.S.C. §§ 1311(a) and 1342. The provisions of the 2018 Order superseded the provisions of the Administrative Compliance Order, Docket Number CWA-02-2017-3013 (the “2017 Order”), that EPA issued to Respondent on March 1, 2017, for violations of the National Pollutant Discharge Elimination System (“NPDES”) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (“MSGP”).¹

The EPA has performed a review of the administrative record concerning the 2018 Order and it is issuing the following comments concerning PVL’s compliance with the Order. The comments follow the numbered paragraphs in Section VII (Ordered Provisions) of the 2018 Order.

- Paragraph 64 (Compliance with CWA) – This is a compliance statement in the 2018 Order that Respondent must always comply with.
- Paragraph 65 (Rain Gauge) – Respondent has complied with the requirements of this paragraph by installing and maintaining a rain gauge a suitable location at the Landfill, and by recording rain data in data log to document measurable storm events. Respondent shall continue to maintain the rain gauge and record rain data to demonstrate compliance with the Quarterly Visual Assessment of Stormwater Discharges and monitoring requirements of the MSGP.

¹ The MSGP was re-issued on June 4, 2015, became effective on the same date and expired on June 4, 2015. Respondent submitted a Notice of Intent (“NOI”) form for the Peñuelas Valley Landfill on October 5, 2015. Respondent obtained MSGP’s coverage for the Landfill on November 4, 2015. The 2015 MSGP tracking number for the Landfill is PR0053203.

- Paragraph 66 (Sampling Point) – Respondent has established and maintained a sampling point for Outfall 001, where it can take representative storm water discharge samples in accordance with Parts 3.2.1, 6.1.3 and B.10 of the 2015 MSGP. Respondent shall continue to maintain the sampling point for Outfall 001 in order to collect storm water discharge samples in accordance with the requirements of the MSGP.
- Paragraph 67 (Visual Assessment and Monitoring) – Respondent submitted documentation in Quarterly Progress Reports on their performance of, among others, Quarterly Visual Assessment of Stormwater Discharges, Benchmark Monitoring and Effluent Limitations Monitoring. Respondent shall continue to perform these activities in accordance with the requirements of the MSGP.
- Paragraph 68 (Corrective Actions) – Respondent submitted documentation in Quarterly Progress Report on their implementation of corrective actions and monitoring concerning the requirements in Parts 4.1 and 6.2.2.3 of the 2015 MSGP, respectively. Respondent shall continue to perform these activities in accordance with the requirements of the 2015 MSGP.
- Paragraph 69 (Monitoring for Effluent Limits) – Respondent submitted documentation that it had sampled, analyzed and reported on two of the three required storm water discharge events thru Outfall 001. See below:
 - ⇒ The first monitoring result for the sample taken on October 11, 2018, revealed a Total Suspended Solids (“TSS”) concentration of 36.0 mg/L, which was below the interim limit of 638.2 mg/l and the effluent limit of 88 mg/L.
 - ⇒ The second monitoring result for the sample taken on November 14, 2018, revealed a TSS concentration of 21.0, which was below the interim limit and the effluent limit.

Respondent has indicated that it has been unable to sample the third discharge event because a representative storm water discharge had not occurred.

Respondent shall sample, analyze and report the third storm discharge event in accordance with paragraph 69 of the 2018 Order. In addition to reporting the monitoring event results in NetDMR, as required in Part 7.4 of the 2015 MSGP, PVL shall submit to EPA the laboratory results and the chain of custody within fifteen (15) calendar days of receipt of the laboratory report.

- Paragraph 70 (Reporting of Monitoring Data) – Respondent submitted documentation in Quarterly Progress Reports and entered monitoring data in the NetDMR database on the results of the storm water monitoring it had performed at the sampling point for Outfall 001. Respondent shall continue to perform and report monitoring activities in accordance with the requirements of the 2015 MSGP.
- Paragraph 71 (Comprehensive Engineering Analysis) – Respondent conducted a comprehensive engineering analysis of measures, such as, but not limited to, structural Best Management Practices (“BMPs”), non-structural BMPs, storm water storage, groundwater recharge, and treatment technologies, to comply with the TSS effluent limit established in Part 8.L.10 of the 2015 MSGP.

- Paragraph 72 (Engineering Analysis Report) – By letter dated March 22, 2019, PVL sent to EPA the Engineering Analysis Report. No further action is required concerning the submittal of the Engineering Analysis Report.
- Paragraph 73 (Compliance Plan) – The Engineering Analysis Report included a Compliance Plan. PVL is hereby notified of EPA’s approval of the Compliance Plan. PVL shall implement the Compliance Plan.
- Paragraph 74 (Licensed Engineer) – The Comprehensive Engineering Analysis and Engineering Analysis Report was conducted, prepared, signed and certified by a licensed engineer authorized to conduct the engineering profession in the United States. No further action is required concerning this paragraph.
- Paragraph 75 (Interim Limit for TSS)² – Since EPA’s approval of the Compliance Plan is being notified herein, the interim limit for TSS will end on three-hundred sixty-five (365) calendar days of the date of this letter. Respondent shall comply with the interim effluent limit accordingly.
- Paragraph 76 (Progress Reports) – Respondent submitted the Quarterly Progress Reports corresponding to the period of December 2019 to March 2020. The Quarterly Progress Reports included information and description of non-structural and structural BMPs implemented at the Landfill, such as the augmentation of the retention volume of the retention pond; erosion and sediment controls; (i.e., installation of erosion control blankets, check dams, velocity dissipation devices); and road stabilization. EPA is not requiring PVL to continue to submit Quarterly Progress Reports at this time.

Based on EPA’s review of the administrative record for the 2018 Order, PVL has reached substantial compliance, and that the pending compliance activity concerns the performance of the third monitoring event and the submittal of such monitoring data results. Upon compliance with such monitoring event and reporting of the data, EPA strongly recommends PVL to initiate the technical analysis of its implementation of non-structural and structural BMPs to assess whether there are in place and working properly to sustain compliance with the TSS effluent limit.³

Finally, please be informed that EPA has issued a guide on the implications of COVID-19 for EPA’s Compliance Program, which can be found at the following address:

<https://www.epa.gov/sites/production/files/2020-03/documents/oecamemooncovid19implications.pdf>.

EPA encourages you and your staff to become familiar with the COVID-19 guidance and visit EPA’s web site for more information about COVID-19 pandemic at following address:

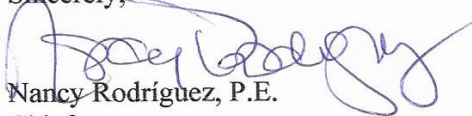
<http://www.epa.gov>.

² See Part 8.L.10 of the 2015 MSGP for the TSS effluent limit of 88 mg/L.

³ Please refer to Paragraphs 97-99 (Termination and Satisfaction) of the Order.

If you have any questions concerning this letter and/or the 2018 Order, please contact Ms. Jaime López, Senior Enforcement Officer/Physical Scientist, Clean Water Act Team, at (787) 977-5851, or by email at lopez.jaime@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nancy Rodríguez", is written over the typed name.

Nancy Rodríguez, P.E.

Chief

Multimedia Permits and Compliance Branch

cc: Ángel Meléndez, DNER (via email)
Jaime Jaen, PVL (via email)